

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DWIGHT S. DENLINGER,

Plaintiff,

v.

JOANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

Civil Action No. 06-231 Erie

MEMORANDUM ORDER

This social security action was received by the Clerk of Court on October 6, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 15], filed on November 29, 2007, recommended that the Motion for Summary Judgment filed by the Plaintiff [Doc. No. 9] be granted, that the Motion for Summary Judgment filed by the Defendant [Doc. No. 13] be denied, and that the case be remanded to the Commissioner of Social Security for further proceedings. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 18th day of December, 2007;

IT IS HEREBY ORDERED that the Plaintiff's Motion for Summary Judgment [Doc. No. 9] is GRANTED and the Defendant's Motion for Summary Judgment [Doc. No. 13] is DENIED. The case is hereby REMANDED to the Commissioner of Social Security for further proceedings.

The Report and Recommendation [Doc. No. 15] of Magistrate Judge Baxter, filed on November 29, 2007, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge